

Testimony in Support of HB 183
Repeal of the Death Penalty
Sponsor Representatives A. Miller and Schmidt
By Attorney and Taxpayer Advocate Christopher P. Finney, Esq.

Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide testimony in support of House Bill 183 (“HB 183”). I am Christopher P. Finney, and I am an attorney and a founding member of the Coalition Opposed to Additional Spending and Taxes (“COAST”). I am speaking today as a longtime advocate of lower taxes and more efficient and effective government. Since 1999, I have joined with many diverse allies to oppose and defeat numerous wasteful tax levies, and to oppose and defeat legislation calling for wasteful spending and increased taxes. And, as an attorney, I have pursued and prevailed in litigation protecting Ohio’s taxpayers.

I am here today in support of ending Ohio’s death penalty for two reasons. First, the cost of the death penalty to Ohio’s taxpayers is considerable and unjustified, and that is the topic on which I will be testifying. Second, I oppose the death penalty for the principled reason that I don’t believe our government or our society should engage in killing any human being. The death penalty sends the message that we condone murder for certain reasons we deem acceptable, and that human life is not to be valued. I do not believe there is any acceptable reason to end another human life or to send the message that there are acceptable reasons.

I know you have already heard extensive testimony on many reasons for ending Ohio’s death penalty, and some of those include: (1) the death penalty is not effective in deterring

murders;¹ (2) there is a real risk of putting an innocent person to death;² and (3) the cost to taxpayers of putting a person to death is considerably higher than keeping the same person in prison for life.³

As you have already learned from prior testimony on this bill, the considerable cost of the death penalty is in large part due to the higher cost of a death penalty trial.⁴ According to a study by the Akron Beacon Journal, that cost is over ten times higher than a non-death penalty murder trial.⁵ And as you've heard in prior testimony, this significantly higher cost is due to statutory and procedural requirements imposed by law in death penalty cases that make the process longer, more extensive, and more expensive than a non-death penalty case.⁶ And, even with these protections, juries have often still gotten it wrong.⁷ Numerous additional studies of the cost of the death penalty are footnoted below.⁸

¹ Ohio House Criminal Justice Committee testimony of Dennis Becker, Prosecutor, Trumbull County, November 10, 2021, at 57:46 -57:51 (Trumbull County Prosecutor Becker stated, "I don't think any of the criminal statutes are a deterrent. And I think to think otherwise is to fool yourself. It is absolutely to fool yourself."); Richard Cline, Assistant Public Defender for the Ohio Public Defender, Death Penalty Department, Testimony in Support of HB 183, November 18, 2021; Death Penalty Info Center, "[Murder Rate of Death Penalty States Compared to Non-Death Penalty States.](#)"

² Mark Godsey, Executive Director, Ohio Innocence Project, Testimony in Support of HB 183, September 23, 2021.

³ Ngozi Ndulue, Deputy Director, Death Penalty Information Center, Testimony in Support of HB 183, November 18, 2021.

⁴ Kevin Werner, Policy Director, Ohio Justice and Policy Center, Testimony in Support of HB 183, September 23, 2021; Richard Cline, Assistant Public Defender for the Ohio Public Defender, Death Penalty Department, Testimony in Support of HB 183, November 18, 2021.

⁵ Warsmith, Stephanie. Akron Beacon Journal, "Death penalty needed for 'worst of worst' chief counsel for Summit County prosecutor says," February 19, 2017.

⁶ Richard Cline, Assistant Public Defender for the Ohio Public Defender, Death Penalty Department, Testimony in Support of HB 183, November 18, 2021.

⁷ Mark Godsey, Executive Director, Ohio Innocence Project, Testimony in Support of HB 183, September 23, 2021.

⁸ Findings of other studies on the cost of the death penalty include:

1. Oklahoma capital cases cost, on average, 3.2 times more than non-capital cases. (Study prepared by Peter A. Collins, Matthew J. Hickman, and Robert C. Boruchowitz, with research support by Alexa D. O'Brien, for the Oklahoma Death Penalty Review Commission, 2017).
2. Defense costs for death penalty trials in Kansas averaged about \$400,000 per case, compared to \$100,000 per case when the death penalty was not sought. (Kansas Judicial Council, 2014).
3. A study in California revealed that the cost of the death penalty in the state has been over \$4 billion since 1978. Study considered pre-trial and trial costs, costs of automatic appeals and state habeas corpus

I do not want to cover ground here today that has already been covered by those who have previously testified before this committee. I repeat these items only as a basis and background for the main point I want to make. While I understand that folks on different sides of the aisle may disagree on the role of government in our society, I believe that we can all agree that taxpayers should not have to fund *any* government program that is completely ineffective in meeting its goal.

The death penalty is ineffective. States without the death penalty consistently have lower murder rates than states with the death penalty (see table comparing murders in death penalty states to murders in non-death penalty states, attached hereto as **Exhibit A**).⁹ And as you have heard in prior testimony, many victims' families oppose the death penalty and say it brings more heartache than closure.¹⁰ Further, for those who argue the death penalty is needed for plea bargaining purposes, I point to two facts. First, under the Ohio Rules of Professional Conduct, it is unethical for a prosecutor to overcharge a defendant for purposes of gaining information or a plea bargain.¹¹ Second, prosecutors in states where the death penalty has been repealed assert

petitions, costs of federal habeas corpus appeals, and costs of incarceration on death row. (Alarcon & Mitchell, 2011).

4. Enforcing the death penalty costs Florida \$51 million a year above what it would cost to punish all first-degree murderers with life in prison without parole. Based on the 44 executions Florida had carried out since 1976, that amounts to a cost of \$24 million for each execution. (Palm Beach Post, January 4, 2000).
5. The most comprehensive study in the country found that the death penalty costs North Carolina \$2.16 million per execution over the costs of sentencing murderers to life imprisonment. The majority of those costs occur at the trial level. (Duke University, May 1993).
6. In Texas, a death penalty case costs an average of \$2.3 million, about three times the cost of imprisoning someone in a single cell at the highest security level for 40 years. (Dallas Morning News, March 8, 1992).
<https://documents.deathpenaltyinfo.org/pdf/FactSheet.pdf>

⁹<https://deathpenaltyinfo.org/facts-and-research/murder-rates/murder-rate-of-death-penalty-states-compared-to-non-death-penalty-states>

¹⁰ Jonathan Mann, Testimony in Support of HB 183, September 23, 2021.

¹¹ Ohio Rule of Professional Conduct 3.8, in relevant part, reads: "The prosecutor in a criminal case shall not do any of the following: (a) pursue or prosecute a charge that the prosecutor knows is not supported by probable cause."

that they do not need the death penalty to do their jobs effectively. For example, former Union County New Jersey Prosecutor Ted Romankow¹² explains:

“The death penalty was abolished in New Jersey in late 2007. The *abolishment had no practical impact in the plea bargaining of accused murderers* in Union County from January 2008 through June of 2013 when I retired as Prosecutor.”

(emphasis added).

As an argument against ending the death penalty, some claim that the cost of the death penalty will not end immediately or completely upon repeal. While this is admittedly true, there will be no more death penalty trials - which account for the highest portion of the cost - for anyone charged after the effective date of the legislation. And over the long run, other costs to the taxpayer of the death penalty will decline as well.¹³ There should be no dispute that it is the duty of the General Assembly to safeguard all taxpayer funds in the short and long term.

Given the cost of the death penalty to Ohio’s taxpayers and its ineffectiveness in meeting any rational, reasonable, or lawful goal, there is no justification for the Ohio General Assembly to keep it on the books. It should be abolished.

¹² Ted Romankow was appointed as the Chief Law Enforcement Officer of Union County, New Jersey on July 26, 2002, and served as the Union County Prosecutor until 2013. As Prosecutor, he was responsible for overseeing 250 employees and a \$19.5 million budget while coordinating the law enforcement efforts of approximately 2,000 police officers in 21 local police departments, the Sheriff’s Office and the Union County Police Department. Mr. Romankow served as President of the County Prosecutors Association of New Jersey. Faced with a rise in the number of unsolved homicides, Mr. Romankow created the Union County Homicide Task Force in 2008 ... The results were immediate, with the solve rate for county homicides rising to more than 75 percent, compared to prior municipalities in the 30 percent range. More information regarding Romankow can be found at <https://www.javerbaumwurgaft.com/attorney/theodore-romankow/>.

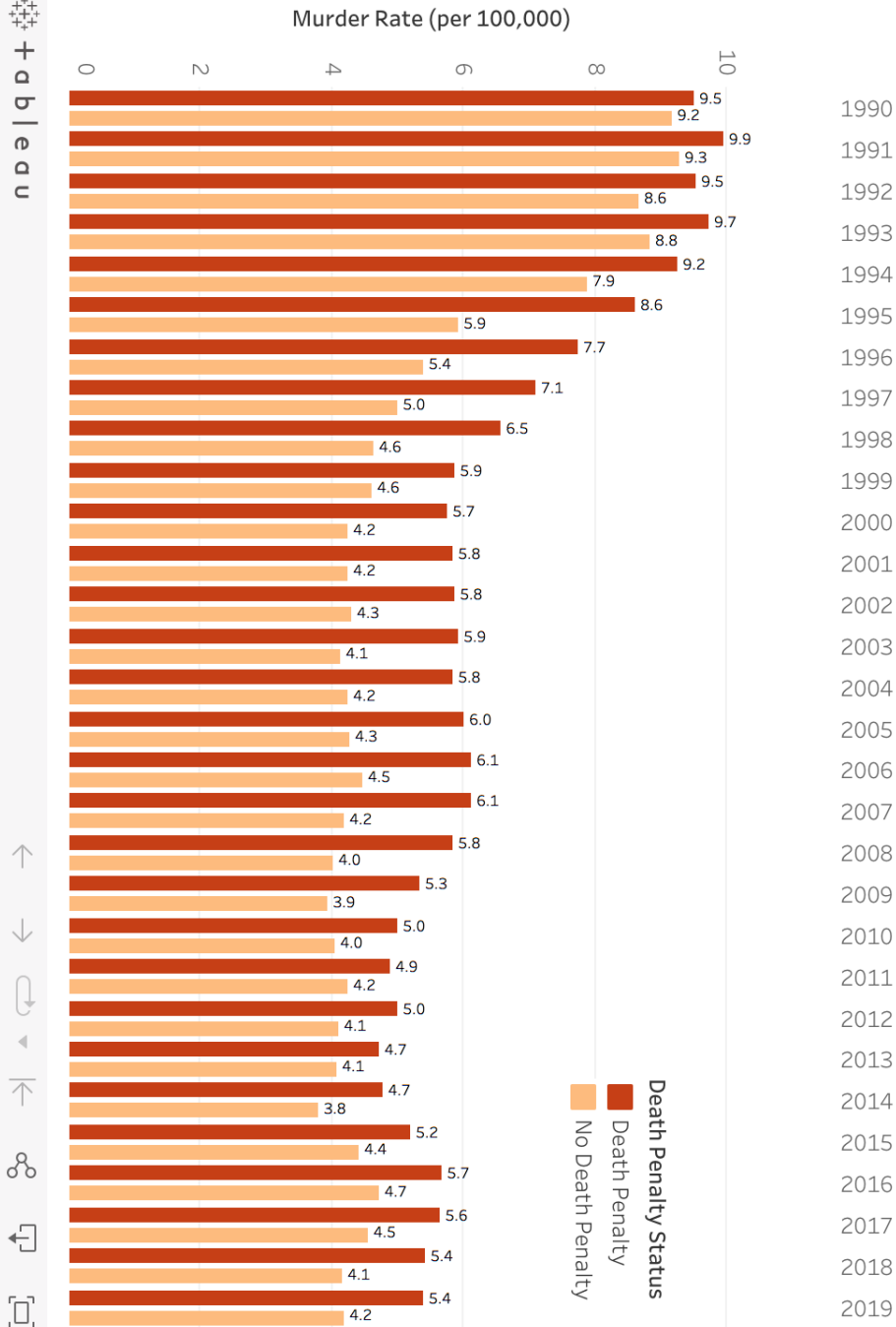
¹³ Louis Tobin Executive Director, Ohio Prosecuting Attorneys Association, Testimony in Opposition to HB 183, November 10, 2021 (“the \$108 million figure is presented as if it would be a one-time savings that Ohio would realize this year when the reality is that the cost of these sentences, just like the total cost of life without parole sentences, is spread out over many years... . Assuming for the sake of argument that one death penalty case does cost \$2 million more than a life without parole case and the average length between a death sentence and an execution is 17 years, that means the state would save about \$118k per year per death sentence...”).

For these reasons, I respectfully ask the member of this committee to support House Bill 183 ending the death penalty in Ohio.

Exhibit A



Murder Rates in Death Penalty and Non-Death Penalty States



The murder rate in non-death penalty states has remained consistently lower than the rate in states with the death penalty, and the gap has grown since 1990.

Source: <https://deathpenaltyinfo.org/facts-and-research/murder-rates/murder-rate-of-death-penalty-states-compared-to-non-death-penalty-states>